

JUDGE HOWELL

11 CIV 00918

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MUSTAFA FTEJA,

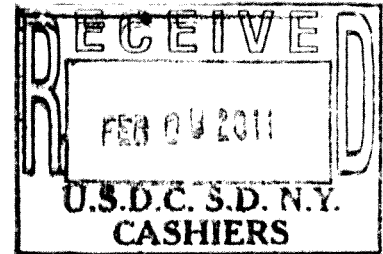
Plaintiff,

v.

FACEBOOK, INC.,

Defendant.

Civil Action No. _____



NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332 and 1441, Defendant Facebook, Inc. ("Facebook") hereby gives notice of removal of the case brought by Plaintiff Mustafa Fteja in the Supreme Court of the State of New York, County of New York, to the United States District Court for the Southern District of New York and states in support of such removal as follows:

1. On January 25, 2011, Plaintiff filed a Summons and Complaint in the Supreme Court of the State of New York, County of New York, styled *Mustafa Fteja v. Facebook Inc.*, Index No. 100975/11 (the "Complaint"). A copy of the Summons and Complaint is attached hereto as Exhibit A.
2. Facebook was served with the Summons and Complaint on January 28, 2011.
3. In addition to the Summons and Complaint, Facebook was served with an Order to Show Cause that was entered by the Hon. O. Peter Sherwood, J.S.C., of the Supreme Court of the State of New York, New York County, on January 26, 2011. A copy of the Order to Show Cause is attached hereto as Exhibit B.
4. This action could have been originally filed in Federal Court pursuant to 28 U.S.C. §§ 1332 and 1367, in that diversity jurisdiction exists because there is complete diversity

of citizenship between the Plaintiff and Facebook and the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs. Removal therefore is proper pursuant to 28 U.S.C. § 1441(a).

DIVERSITY OF CITIZENSHIP

5. Plaintiff alleges that he is domiciled at 3605 Hylan Boulevard in Staten Island, New York, and he is therefore a citizen of New York. See Complaint at ¶ 1.

6. Facebook is a corporation organized and existing under the laws of the State of Delaware and maintains a principal place of business in the State of California. Following the “nerve center” test as adopted by the Supreme Court, Facebook is a citizen of California. *Hertz Corp. v. Friend et al.*, 130 S.Ct. 1181, 1193-1195 (2010).

7. Finally, removal of this case on the basis of diversity of citizenship is not precluded by the provisions of 28 U.S.C. § 1446(a) and (d) because Facebook is not a citizen of the district in which the action was brought.

8. Thus, complete diversity of citizenship exists between the parties for purposes of diversity jurisdiction under 28 U.S.C. § 1332(a).

AMOUNT IN CONTROVERSY

9. The amount in controversy exceeds the sum or value of \$75,000, exclusive of interests and costs, because Plaintiff is seeking money damages in the sum of \$500,000. See Complaint at ¶ 15.

10. For this reason the amount in controversy requirement for purposes of diversity jurisdiction under 28 U.S.C. § 1332(a) has been met.

TIMING OF NOTICE OF REMOVAL

11. This Notice of Removal is filed within thirty (30) days after receipt by Facebook of service of the Complaint and so is timely filed in accordance with 28 U.S.C. § 1446(b).

**THE OTHER REMOVAL PREREQUISITES
HAVE BEEN SATISFIED**

12. A Notice of Filing of Notice of Removal is being filed in the Supreme Court of the State of New York, County of New York, pursuant to 28 U.S.C. § 1446(d). Moreover, written notification of this Notice is being made on Plaintiff pursuant to 28 U.S.C. § 1446(b).

13. Defendant has not sought similar relief.

14. The Prerequisites for removal under 28 U.S.C. § 1441 have been met.

MISCELLANEOUS

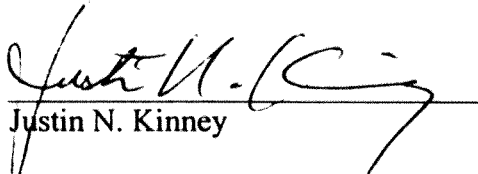
15. If any question arises as to the propriety of the removal of this action, Defendant respectfully requests the opportunity to present a brief and oral argument in support of its position that this case is removable.

16. By filing this Notice of Removal, Facebook does not waive any defenses, including without limitation, lack of personal jurisdiction, improper venue or forum, all defenses specified in Fed.R.Civ.P. 12, or any other defense.

WHEREFORE, Defendant Facebook, Inc. hereby gives notice that this action now pending against it in the Supreme Court of the State of New York, County of New York, has been removed to the United States District Court for the Southern District of New York.

Dated: New York, New York
February 9, 2011

COUGHLIN DUFFY LLP

By: 
Justin N. Kinney

Wall Street Plaza
88 Pine Street, 28th Floor
New York, New York 10005
Telephone: (212) 483-0105
Facsimile: (212) 480-3899
*Attorneys for Defendant
Facebook, Inc.*

EXHIBIT A

Print in **black** ink all areas in bold letters. This summons **must** be served with a complaint.]

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

_____x

MUSTAFA FTEJA

[your name(s)] _____ Plaintiff(s)

- against -

FACEBOOK INC

[name(s) of party being sued] _____ Defendant(s)

SUMMONS ¹¹¹⁰⁰⁹⁷⁴

Index Number

Date Index Number purchased

_____, 200____.

To the Person(s) Named as Defendant(s) above:

PLEASE TAKE NOTICE THAT YOU ARE HEREBY SUMMONED to answer the complaint of the plaintiff(s) herein and to serve a copy of your answer on the plaintiff(s) at the address indicated below within 20 days after service of this Summons (not counting the day of service itself), or within 30 days after service is complete if the Summons is not delivered personally to you within the State of New York.

YOU ARE HEREBY NOTIFIED THAT should you fail to answer, a judgment will be entered against you by default for the relief demanded in the complaint.

Dated: 01-19 - , 2011
[date of summons]

FILED
JAN 25 2011
NEW YORK
COUNTY CLERK'S OFFICE

Mustafa Fteja
[sign your name]

MUSTAFA FTEJA
[print your name]

3605 HULAN BLVD
STATEN ISLAND N.Y. 10308
212-786-2885
[your address(es), telephone number(s)]

Defendant(s) FACEBOOK INC
1601 S. CALIFORNIA AVE
PALO ALTO, CALIFORNIA 94304
1650-543-4800
[address(es) of defendant(s)]

Venue: Plaintiff(s) designate(s) New York County as the place of trial. The basis of this designation is: [check box that applies]

- ☐ Plaintiff(s) residence in New York County
☐ Defendant(s) residence in New York County
☐ Other [See CPLR Article 5]: _____

SUPREME COURT OF THE STATE OF NEW YORK.
COUNTY OF NEW YORK

Mustafa Fteja,

Plaintiff,

vs.

Facebook INC,

Defendant

Index No.:

COMPLAINT

FILED
JAN 25 2011
NEW YORK
COUNTY CLERK'S OFFICE

TO THE SUPREME COURT OF THE STATE OF NEW YORK

The complaint of the plaintiff, Mustafa Fteja, respectfully and alleges as follows:

1. The plaintiff herein, Mustafa Fteja, is a resident of the State of New York. Mr Fteja resides at 3605 Hylan Blvd Staten Island, New York.
2. The defendant herein, Facebook Inc is a registered BUSINESS CORPORATION in New York. Defendant is in the social networking business.
3. The plaintiff was an active user of facebook.com
4. On September 24, 2010 the defendant disabled the plaintiff facebook account without warning or without reason.
5. The plaintiff has numerous times tried all channels to resolve this matter by procedures outlined on the defendants website.
6. The plaintiff has not given any reason for the account being disabled.
7. All attempts to resolve the issue have been ignored.
8. The plaintiff has been adhering to facebook terms of services
9. The plaintiff has been a contributing user for facebook for years previous to the incident.

1 10. The plaintiff has helped build the facebook community by adding content and
2 signing up new members to facebook.

3 11. While the requested service is free, the plaintiff has spent timeless hours
4 creating content and relationships the defendant benefited from.

5 12. Facebook has become a very important means of communications for the defendant

6 13. Plaintiff unjust actions have caused defendant great harm in all his personal
7 relationships and the ability to communicate with them.

8 14. The plaintiff has ignored me and discriminated me based on my religion and
9 ethnicity.

10 15. By reason of the facts and circumstances stated above the plaintiff has been
11 damaged by the defendant in the sum of \$500,000
12
13
14
15

16 Dated this [Date] 01-19-2011
17 *Mustafa Yteja*
18 Mustafa Yteja
19 3605 Hylan Blvd
20 Staten Island, NY 10308
21 212-785-2885
22
23
24
25
26
27
28

EXHIBIT B

[Print in black ink all areas in bold letters. Other spaces are for Court use].

At I.A.S. Part 61 of the Supreme Court of the State of New York, held in and for the County of New York at the Courthouse therefore, 60 Centre Street, New York, N.Y., on the 26 day of JANUARY, 2011

O. PETER SHERWOOD

J.S.C.

PRESENT: HON. _____
Justice of the Supreme Court

MUSTAFA FTEJH
[fill in name(s)] Plaintiff(s)
- against -

Index Number

100974/11

FACEBOOK INC
[fill in name(s)] Defendants(s)

ORDER TO SHOW CAUSE
IN CIVIL ACTION

Upon reading and filing the affidavit(s) of _____

MUSTAFA FTEJH [your name(s)], sworn to on 01-19-, 2011.

[date Affidavit in Support notarized], and upon the exhibits attached to the affidavit,

[Identify Exhibits below. List additional Exhibits on separate page.]

Exhibit A - _____

Let the party or attorney in opposition show cause at I.A.S. Part 61, Room 341, of this Court, to be held at the Courthouse, 60 Centre Street, New York, N.Y., on the 16th day of Feb., 2011 at 3:30 o'clock in the afternoon or as soon as such party or attorney may be heard why an order should not be made, providing the following relief:

[briefly describe what you are asking the Court to do]: ORDERING Facebook to
ACTIVATE MY FACEBOOK ACCOUNT UNTIL TRIAL

IS FINISHED

for the reasons that [briefly describe the reasons why you should be granted what you are requesting] FACEBOOK HAS BECOME A SERIOUS TOOL FOR COMMUNICATION, I RELY ON FACEBOOK TO COMMUNICATE WITH FAMILY AND FRIENDS AROUND THE WORLD. THE NATURE OF FACEBOOK DISABLED ACCOUNT DOESN'T LET YOUR CONTACTS KNOW THAT YOUR ACCOUNT WAS DISABLED, CONTACTS ASSUME THAT I CUT TIES WITH FAMILY AND FRIENDS CAUSING ME SEVERE PERSONAL HARM, AND HURT MY PERSONAL FEELINGS BY DISCRIMINATING

Sufficient cause appearing therefore, let personal service of a copy of this order, the affidavit in support, and all other papers upon which this order is granted, upon all other parties to this action or their attorneys, who have appeared in this action, on or before the ~~15~~^{1st} day of ~~JANUARY~~^{FEB} 2011 be deemed good and sufficient. An affidavit or other proof of service shall be presented to this Court on the return date directed in the second paragraph of this order.

gpc's) Responses papers, if any shall be served by filed ENTER so as to be received by 2/14/2011.

O. P. Shenwood
J. S. C.
O. PETER SHENWOOD
J.S.C.